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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/670,923 | 09/24/2003 | Joseph Auriemma | 0311 | 6553 |

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EXAMINER

LAVINDER, JACK W

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,923

Applicant(s)

AURIEMMA, JOSEPH

Examiner

Jack W. Lavinder

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/24/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Paul, 4873809 in view of Rogers, 4580387 and Carty, 4775121.

The Paul reference is considered to show the invention except for a clip made from two synthetic resins with different properties, wherein a U-shaped body and a pair of legs are made from a relatively rigid resin and a downwardly biased hinge connecting the U-shaped body to the legs is made from a relatively flexible resin. Paul discloses a clip (10) made from spring steel to allow bending while maintaining the tendency for the clip to return to its original preformed shape. Paul's clip has an inverted u-shaped body (12) with a pair of legs (22) that flexibly hinge about an axis (14, figure 3). The legs are biased downwardly by the hinge portion, i.e., where the legs become thin.

Rogers discloses that it is old and well known to make a hold-down clip (7, 11a) from a plastic material, but fails to disclose a downwardly biased hinge between the legs and the U-shaped body.

The new reference to Carty, 4775121, discloses that it is old and well known to make a clip by co-extruding two plastic materials (PVC) to form the

unitary clip body, wherein the body (12, 56) of the clip is formed with a relatively rigid plastic and the hinge is formed with a relatively flexible plastic (16). Carty does teach replacing the old plastic integrally molded clip made from a single plastic material found in US Patent 3421187 with the co-extruded clip (col. 1, 31-37). This is done to provide a clamp for retaining a plurality of cables with a rigid and firm clamping action on the cables when assembled into the clamp and to provide flexibility in opening and closing the clamp, thereby allowing access to the cables by a single operator. Also, this is done to provide a plastic clamp that can be mass produced by co-extruding a plurality of plastic materials.

Therefore, it would have been obvious to a person having ordinary skill in the art to modify Paul's spring steel clip to be made from a co-extruded plastic clip to provide a plastic clamp that can be mass produced by co-extruding a plurality of plastic materials that will achieve the same, if not better, benefits of Paul's spring steel hold-down clip, i.e., easier to assemble to the ceiling grid and better retention of the ceiling tiles on the grid.


3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

Art Unit: 3677

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jack W Lavinder
Primary Examiner
Art Unit 3677

10/27/05